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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/614,586	07/12/2000	Gilles Elliot	1200.384	2306

7590 08/04/2004

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EXAMINER

CIRIC, LJILJANA V

ART UNIT PAPER NUMBER

3753

DATE MAILED: 08/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/614,586

Applicant(s)

ELLIOT ET AL.

Examiner

Ljiljana (Lil) V. Ciric

Art Unit

3753

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☒ they raise the issue of new matter (see Note below);
  - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☒ Applicant's reply <sup>would</sup> overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ <sup>2VC 8-3-04</sup> would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 1,2,7-10,17-23,30 and 31.

Claim(s) withdrawn from consideration: 3-6 and 11-16.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
Ljiljana (Lil) V. Ciric  
Primary Examiner  
Art Unit: 3753

Continuation of 2. NOTE: Proposed amendment to the claims would change the scope of the claims, necessitating further consideration and/or search. While appearing to overcome most or all of the rejections of the claims under 35 U.S.C. 112, second paragraph, as cited in the previous Office action, the proposed amendments would introduce new problems under 35 U.S.C. 112, first and second paragraphs. Applicant's arguments regarding support in the originally filed disclosure for the proposed "corrections" to the paragraphs on page 8 and 9 of the specification appear tenuous at best, and are based on a self-contradictory original disclosure. Applicant's proposed changes to claim 1, for example, introduce new indefiniteness problems, such as by relying on an indeterminate term, "therewith", which term fails to clearly refer to a particular element(s).

Continuation of 3. Applicant's reply would overcome the following rejection(s)/objection(s): the objections to the drawings for failing to show claimed subject matter, the objections to the specification on the basis of a lack of proper antecedent basis, the rejection of claim 31 under 35 U.S.C. 112, first paragraph, all as cited in the previous Office action.

